

CITY OF MIAMI BEACH
Office of the City Manager
Letter to Commission No. 139-2004



To: Mayor David Dermer and
Members of the City Commission

Date: June 2, 2004

From: Jorge M. Gonzalez
City Manager

A handwritten signature in black ink, appearing to read "Jorge", written over the printed name of the City Manager.

Subject: ISLAND GARDENS / WATSON ISLAND – NOTIFICATION OF PROPOSED CHANGE

The purpose of this LTC is to update the Mayor and City Commission on the status of the Notification of Proposed Change (NOPC) to the Downtown Miami Development of Regional Impact (DRI).

On May 13, 2004, the Administration transmitted comments on the NOPC to the South Florida Regional Planning Council (the "Council"). This package of comments included:

- Resolution 2004-25566, which the City Commission adopted on May 5, 2004
- May 5, 2004 Commission Memorandum
- May 5, 2004 Transcript of the Watson Island discussion item
- DMJM Harris (City's transportation consultant) Report on their review of the Transportation Assessment submitted as part of the NOPC
- Urban Environmental League letter to the City of Miami
- February 7, 2002 letter to the City of Miami

On May 20, 2004, Shutts & Bowen, LLP, representing Flagstone Island Gardens, submitted their response to the City of Miami Beach's comments to the South Florida Regional Planning Council. Additionally, on May 27, 2004, the Downtown Development Authority also submitted its response to the City's comments to the Council. Copies of their responses are attached.

On May 28, 2004, the South Florida Regional Planning Council submitted its comments on the NOPC to the Florida Department of Community Affairs (DCA). In this letter, Council staff recommends the proposed changes be determined to be a substantial deviation, because the proposed project will require additional development order amendments or conditions to satisfy impacts created by the marina that have not been identified as proposed changes to the development order for the Downtown Miami - Increment II DRI. The Council had comments on Seagrass and Benthic Community Mitigation and on Transportation, and their letter states that portions of the traffic analysis do not clearly and convincingly rebut the presumption that no roadways will be significantly impacted.

Additionally, the Council states that the Development Order should specify that development on Watson Island is limited to the types and amounts proposed within the NOPC and are not subject to the application of the existing flexibility matrix. As an example, the Council recommends that the uses on Watson Island cannot be converted to

residential uses without an amendment to the comprehensive plan and an amendment to the DRI.

The Council identifies is that no development, including the vested portion of the marina uses, should be permitted until issues related to the existing public use deed restriction on the land has been resolved with the State. The Council also forwarded to the DCA the City's comments, as well as comments from the Florida Department of Transportation, DERM, and the South Florida Water Management District.

The Council letter to DCA notes that "the development order should specify that development on Watson Island is limited to types and amounts proposed within this application and is not subject to application of the existing flexibility matrix. For example, the uses on Watson Island cannot be converted to residential uses without an amendment to the Comprehensive Plan and an amendment to the DRI."

On May 28, 2004, the Department of Community Affairs transmitted its comments to the City of Miami Planning and Zoning Department. In this letter, DCA agrees with the Council's concerns and states that it has determined that additional modifications are necessary to ensure that the NOPC does not require review as a substantial deviation to the DRI development order.

On June 2, 2004, the City of Miami Planning Advisory Board will meet to consider a Major Use Special Permit (MUSP) for the Island Gardens Project. In the agenda item regarding the MUSP approval for Island Gardens project, the memorandum includes a finding that the proposed development project will benefit the area by creating new residential and commercial opportunities on Watson Island..." (i.e. 105 fractional ownership units.)

Therefore, the introduction of residential uses requires both Comprehensive Plan and DRI amendments, neither which have been sought to our knowledge. This obviously also requires a review of the impact on hurricane evacuation, which at this point has not been required by SFRPC as no residential had been contemplated.

Future Pending Actions

Another issue related to Watson Island is the public use deed restriction. The development property was deeded to the City of Miami by the State of Florida in 1949. The City of Miami is currently processing a waiver of the deed restriction, which must be approved by the Florida Cabinet. This item is expected to go to the Cabinet Aides on June 16 and to the Cabinet for approval on June 24.

The City Commission should discuss the City of Miami Beach's position, if any, relative to the aforementioned issues. Accordingly, a discussion item has been scheduled on the June 9, 2004, City Commission agenda.

If you have any comments or questions, please do not hesitate to contact me.

JMG\CMC/kc

c: Murray Dubbin, City Attorney
Robert Parcher, City Clerk
Christina M. Cuervo, Assistant City Manager
Jorge Gomez, Planning Director
Fred Beckman, Public Works Director
Kevin Crowder, Economic Development Division Director

Attachments:

May 28, 2004 DCA Letter
May 28, 2004 South Florida Regional Planning Council Letter
May 21, 2004 South Florida Water Management District Letter
May 14, 2004 Miami-Dade County DERM Letter
April 29, 2004 Kittelson & Associated Inc. Letter
May 13, 2004 City of Miami Beach Letter
May 20, 2004 Shutts & Bowen Letter
May 27, 2004 Downtown Development Authority Letter
June 2, 2004 Miami Planning Advisory Board Agenda Item - Analysis for Major Use
Special Permit for the Island Gardens Project

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STATE OF FLORIDA
DEPARTMENT OF COMMUNITY AFFAIRS

"Dedicated to making Florida a better place to call home"

JEB BUSH
Governor

THADDEUS L. COHEN, AIA
Secretary

May 28, 2004

Ms. Lourdes Y. Slazyk
City of Miami Planning and Zoning Department
444 S.W. 2nd Avenue, Third Floor
Miami, Florida 33130

Dear Ms. Slazyk:

The Department has reviewed the Notice of Proposed Change, received on April 14, 2004, for the Downtown Miami Increment II, which proposes to modify the boundary to allow for the development of a hotel, related retail and marina uses on Watson Island. The proposed change to modify the boundary of the NOPC and to expand the marina use constitute changes that are subject to Section 380.06(19)(e)(3), F.S., and are presumed to result in a substantial deviation, unless adequately rebutted. The Department has determined that additional modifications are necessary to ensure that the NOPC does not require review as a substantial deviation to the DRI development order.

The NOPC clearly explains the intent to develop the island as previously described; however, the NOPC does not propose any specific development order (DO) conditions to limit the development in accordance with the proposed development plan. As such, the development order would potentially allow the reallocation of uses based on the flexibility matrix within the current DO. This could potentially result in the development of uses on the island, resulting in regional impacts not previously reviewed. To correct this problem, the development order should be amended to include a condition that specifies the uses allocated to the Watson Island parcel and to incorporate a basic master plan for those uses.

The Department is also concerned that the proposed marina may result in a substantial deviation, unless it is clearly established that the proposed redevelopment of the marina would not result in a divesting of the vested marina use as described in our November 15, 2004 binding letter (BLIVR 11003-001), shown in Exhibit C to the NOPC. In order to retain vesting, the redevelopment must occur within the same footprint as the vested marina. In that case, the resulting new marina use would be eight slips, which is less than the substantial deviation threshold set forth in Section 380.06(19)(b), which provides that an additional 20 slips would trigger a substantial deviation. The development order should demonstrate that no more than 19 slips would occur outside of the vested footprint.

Ms. Slazyk

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COMMUNITY PLANNING
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EMERGENCY MANAGEMENT
2555 Shumard Oak Boulevard
Tallahassee, FL 32399-2100
(850) 413-9969

HOUSING & COMMUNITY DEVELOPMENT
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(850) 488-7956

May 28, 2004

Page Two

Finally, the Department has received the attached letter, dated May 28, 2004, from the South Florida Regional Planning Council (SFRPC), which letter sets forth similar concerns. We recommend that the City and applicant coordinate with the SFRPC staff to resolve the concerns outlined in their letter before proceeding to a final public hearing. If you have any questions regarding our concerns, please contact Ken Metcalf, AICP, Regional Planning Administrator, at (850) 922-1807.

Sincerely,

Charles Gauthier, AICP
Chief, Office of Comprehensive Planning

cc: Ms. Carolyn Dekle, Executive Director, SFRPC
Ms. Dana Nottingham, Executive Director, DDA
Ms. Judith Burke



COMMUNITY DEVELOPMENT DEPT.
2004 MAY 32 PM 2:25

May 28, 2004

Mr. Dickson Ezeala
Florida Department of Community Affairs
2555 Shumard Oak Blvd.
Tallahassee, Florida 32399-2100

Re: Increment II of the Downtown Miami Development of Regional Impact (DRI)
Island Gardens/Watson Island - Notification of Proposed Change

Dear Mr. Ezeala:

On April 13, 2005, Council staff received a Notice of Proposed Change (NOPC) for the Downtown Miami - Increment II DRI. The application proposes to increase the land area of the Downtown Miami DRI to accommodate the development of a marina, hotel and retail uses on a portion of Watson Island.

Council staff does not object to this development plan; however, Council staff recommends the proposed changes be determined to be a substantial deviation, pursuant to Chapter 380.06(19), F.S. because the proposed project will require additional development order amendments or conditions to satisfy impacts created by the marina that have not been identified as proposed changes to the development order for the Downtown Miami - Increment II DRI. Additionally, portions of the traffic analysis do not clearly and convincingly rebutt the presumption that no roadways will be significantly impacted. Prior to the adoption of any amendments to the development order the City of Miami should ensure that the following issues have been addressed.

Seagrass and Benthic Community Mitigation

The application identifies the proposed marina will require mitigation for impacts to seagrass beds and benthic communities, including the relocation of corals. According to the analysis submitted, the project would require a mitigation area of 1.87 acres. This area was determined by utilizing a mitigation ratio of 3 to 1, while the appropriate mitigation ratio is reported by the South Florida Water Management District to be 3.5 to 1. No development order conditions have been proposed to address this impact. Pursuant to Rule 9J-2.041(7), F.S. the development order shall establish the acreage, location, and type of habitat of offsite mitigation.

The application describes a relocation plan for corals that would commence in May 2004. This proposed relocation plan needs to be updated and integrated as part of the development order as should NOPC Exhibits D-4 through D-6 that depict the location of the marina and marina slips as well as procedures for Spill Prevention, Control and Countermeasures, and waste pumpout and disposal.

The monitoring of seagrass mitigation areas and coral relocations should also be incorporated into the Annual Monitoring Report provisions.

Transportation

The flexibility matrix for Downtown Miami - Increment II DRI contains slightly different conversion rates for many of the land uses. The revised matrix, which now includes marina, does not indicate why these rates have changed. Changes in the rates were not part of the agreed to traffic methodology.

General

The development order should include a revised legal description of the subject property, including submerged lands.

As indicated in the pre-application summary, the development order should also specify that development on Watson Island is limited to the types and amounts proposed within this application and is not subject to the application of the existing flexibility matrix. For example, the uses on Watson land cannot be converted to residential uses without an amendment to the comprehensive plan and an amendment to the DRI.

The development property was deeded to the City of Miami in 1949. The City of Miami is currently processing a waiver of the "public use" deed restriction. No development, including the vested portion of the marina uses should be permitted until this restriction is approved.

Attached for your consideration are comments from the Florida Department of Transportation, Miami-Dade County Department of Environmental Regulation, and the South Florida Water Management District. Additional comments from the City of Miami Beach and responses to these comments from the applicant and the Downtown Development Authority are attached.

Council staff is coordinating with other review agencies in the hope that these concerns may be addressed by the applicant prior to the public hearing. We, therefore, respectfully request that you notify us of the public hearing, as soon as it is scheduled. Please do not hesitate to call me or Javier Betancourt, Council staff, with any question or comments regarding this matter.

Sincerely,


Carolyn A. Dekle
Executive Director

CAD/tmb

Attachment

cc: Attached Distribution list



SOUTH FLORIDA WATER MANAGEMENT DISTRICT

3301 Gun Club Road, West Palm Beach, Florida 33406 • (561) 686-8800 • FL WATS 1-800-432-2045 • TDD (561) 697-2574
Mailing Address: P.O. Box 24680, West Palm Beach, FL 33416-4680 • www.sfwmd.gov

CON 24-06

Environmental Resource Regulation

May 21, 2004

Mr. Kirk Lofgren
Coastal Systems International, Inc.
464 South Dixie Highway
Coral Gables, Florida 33146

B.F.R.P.C

MAY 24 114

Dear Mr. Lofgren:

**SUBJECT: Application Number 030714-19, Island Gardens Mega-Yacht Harbor,
S31/T53S/R42E, Miami-Dade County**

The staff has completed a review of the additional information received April 24 and May 12, 2004 for the above-referenced application. Pursuant to Rule 40E-4, Florida Administrative Code (FAC), the District requests the following information to complete the application.

1. As previously requested, the response received states that negotiations to modify the deed restrictions are being finalized. As previously requested, please provide the Board of Trustees final action regarding this issue to the District.
2. As previously stated, dredging is proposed within the 100-foot easement (O.R.B. 3622). Please provide documentation from the easement holder (U.S. Army Corps of Engineers) that the proposed dredging will not conflict with the easement holder's activities. This documentation is necessary to provide a reasonable assurance that the project, as proposed, can be constructed.
3. The turbidity screens typical plan contained within the turbidity management plan at the project site indicates that the turbidity screens will only extend to a depth of -14-feet. Please revise this proposal to indicate that turbidity screens will extend to the bottom. Additionally, please provide a typical plan for the mitigation sites indicating that turbidity management devices will extend to the bottom.
4. The response package indicates that the benthic mitigation plan includes two options. Please provide a revised proposal identifying which option will be incorporated into this plan. Please provide executed copies of all necessary permits to conduct the proposed work.
5. The response package received February 12, 2004 discusses the Miami-Dade County Manatee Protection Plan (MDCMPP). The response received on April 23,

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EXECUTIVE OFFICE

Henry Dean, Executive Director

Mr. Kirk Lofgren

May 21, 2004

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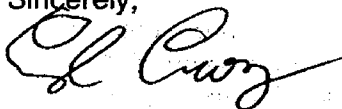
2004 provides a draft response from Miami-Dade County regarding the project's consistency with the manatee protection plan. Please provide a final, signed copy of this correspondence.

The following comments are provided to assist the applicant in submitting a permissible proposal. Be advised that resolution of these issues will be required prior to staff recommending approval of this application.

- A. The seagrass mitigation proposal includes a proposed mitigation ratio of 3:1. The applicant has provided the appropriate information necessary to conduct a UMAM (Rule 62-345, Florida Administrative Code) analysis, as requested by the applicant. The result of this analysis indicates that a mitigation ratio of 3.5:1.0 would be required to offset the seagrass component of the proposed impact. Please provide a revised seagrass mitigation plan consistent with this ratio. As an option the applicant may choose to provide additional (over and above what is required to offset the hard bottom impacts proposed) hard bottom mitigation (out-of-kind) at a 0.5:1.0 ratio.

In accordance with Rule 40E-1.603(1)(b), FAC, if the requested information is not received within 90 days of the date of this letter, this application may be processed for denial if not withdrawn by the applicant. Please submit four copies of this information and include the above referenced application number. Should you have any questions, please call Ron Peekstok at 561-682-6956. Please include a copy of the enclosed "Transmittal Form for Requested Information" to each of the required copies of the requested information.

Sincerely,



Ed Cronyn
Senior Supervising Environmental Analyst
Natural Resource Management Division

cc: Miami-Dade County DERM – Many Tobon, Lee Hefty, Molly Messer
U.S. Army Corps of Engineers – Penny Cutt
NOAA/National Marine Fisheries Service – Audra Livergood
U.S.E.P.A. – Ron Miedema
U.S.F.W.S. – Alan Webb
FFWCC – Ann Richards
South Florida Regional Planning Council – Allyn Childers
Greenberg, Traurig, P.A. – Reginald Bouthillier



ENVIRONMENTAL RESOURCES MANAGEMENT

OFFICE OF THE DIRECTOR

33 SW 2nd AVENUE

MIAMI, FLORIDA 33130-1540

(305) 372-6754

FAX (305) 372-6759

S.F.R.P.C

MAY 21 04

May 14, 2004

Ms. Carolyn Deckle, Director
South Florida Regional Planning Council
3440 Hollywood Blvd., #140
Hollywood, FL 33021

Re: Notification of Proposed Change (NOPC) Expansion of Boundaries/Watson Island

Dear Ms. Deckle:

DERM has reviewed the information submitted concerning the City of Miami Notification of Proposed Change Expansion of Boundaries/Watson Island and offers the following comments:

Coastal Resources:

The DRI includes a proposed marina for large, luxury yachts ("mega-yachts") located on the northwestern portion of Watson Island. Work in tidal waters requires a Miami-Dade County Class I Coastal Construction permit. The Coastal Resources Section of DERM has received an application for the above project and is currently processing the application. Due to the work proposed, the application must be reviewed at a public hearing and approved by the Miami-Dade Board of County Commissioners (BCC) prior to the issuance of the Class I Permit. In addition, the applicant should be advised that Permits or approvals are also required from the Florida Department of Environmental Protection, the South Florida Water Management District, or the U.S. Army Corps of Engineers. Because the Class I application is not yet complete, it is not possible for DERM to make a recommendation of either approval or denial of this particular facility at this time. However, the following information should be noted during the DRI process.

- The review of the information submitted for this DRI application has revealed that several documents are inconsistent with the most recent information in the Class I permit application file. Specifically, these inconsistencies are located in Exhibits D-4, D-5, D-6, D-7, and D-10.
- The proposed coastal construction project involves activities that represent significant potential impact to tidal waters, including dredging and construction of a large piers and docks. Minimum dredging and filling for construction of marine facilities may be permitted pursuant to Sec. 24-58.3(B)(3) of the Code of Miami-Dade County, provided that all other relevant requirements of Ch. 24-58 are met. Sec. 24-58.4 of the Code of

Miami-Dade County requires that adverse environmental impacts be avoided and minimized, and that unavoidable impacts be offset by appropriate mitigation.

- An annual operating permit is also required from Miami-Dade DERM for marinas, terminals, and other similar existing or proposed vessel facilities, pursuant to Ch. 24-35.1 of the Code of Miami-Dade County.
- The Miami River and Biscayne Bay are essential habitat for the West Indian manatee, an endangered species. Projects involving any construction in tidal waters or that include vessel storage or docking facilities should be consistent with the Miami-Dade County Manatee Protection Plan, pursuant to Sec. 24-58.3 of the Code of Miami-Dade County.
- It is generally recommended that water-dependent and water-related uses along the shorelines be retained. However, local and state regulations generally prohibit construction of non-water dependent fixed or floating structures in or over water or filling tidal waters for non-water dependent purposes.

The waters of Biscayne Bay and the Miami River within or adjoining the project area are part of the Biscayne Bay Aquatic Preserve and are classified by the State of Florida as Outstanding Florida Waters. As such, they are subject to strict regulation pursuant to Florida Statutes and Administrative Code, particularly regarding water quality protection and use of state-owned submerged lands.

Water and Sewer:

The proposed development is located within the Miami-Dade Water and Sewer Department (MDWASD) water and sewer franchised service area. The source of water and sewer service for this development is the Hialeah Preston Water Treatment Plant and the Miami Dade Central District Wastewater Treatment Plant, both of which have adequate capacity to meet projected demands from this project. Connection of the proposed development to the public water supply and public sanitary sewer system shall be required. The estimated demand for this addition is 189,164 gallons per day (gpd). This figure does not include irrigation demands.

Stormwater Management:

The proposed development shall require an Environmental Resource Permit issued by FDEP. A Class II Permit is required for the proposed overflow of runoff into the bay. A Class V drainage well permit is required by FDEP, for the construction of the proposed drainage wells.

Hazardous Waste:

The referenced site is currently or was historically permitted with DERM under storage tank permit UT-1282 (Watson Island Fuel & Fishing Supply). The site is a petroleum contaminated site with two identified petroleum discharges documented. A search within 500' of the property did not identify sites with records of current contamination assessment/remediation activities. Be advised that solid waste sites were not identified within a ½ mile radius of the site.

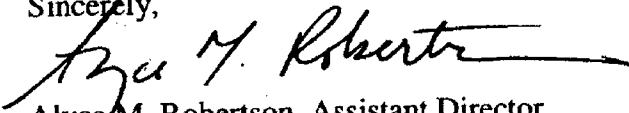
Ms. Carolyn Deckle, Director
Notification of Proposed Change (NOPC)
Expansion of Boundaries/Watson Island
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Air Quality:

Fugitive dust emissions should be minimized during all construction phases. Any involved demolition will require an asbestos survey and any required asbestos abatement shall be done prior to demolition.

In summary, the above information is offered concerning DERM requirements. It is recommended that actual design development be closely coordinated through this office to insure compliance with all applicable Code requirements.

Sincerely,



Alyce M. Robertson, Assistant Director
Environmental Resources Management

cc: David Dahlstrom, AICP, Senior Planner, SFRPC



KITTELSON & ASSOCIATES, INC.

TRANSPORTATION PLANNING/TRAFFIC ENGINEERING

110 E. BROWARD BLVD., SUITE 2410 • FT. LAUDERDALE, FL 33301 • (954) 735-1245 • FAX (954) 735-9025

April 29, 2004

Project #: 4533.10

Karen McGuire
FDOT District 6
602 South Miami Ave.
Miami, FL 33130

**RE: *Downtown Miami Increment II NOPC
Expansion of Boundaries/Watson Island***

Dear Karen,

Kittelison & Associates has reviewed the notification of proposed changes for the Downtown Miami Development of Regional Impacts dated April 8, 2004. The proposed changes include:

1. an increase in the area and a new description of the boundaries of the Master Development Order to include the Watson Island Property;
2. modification of the Master Development Program Table for Increment II, in order to accommodate the development proposed on Watson Island. This development includes the redevelopment of an existing operational marina. There are 42 existing slips that are considered vested trips, and 8 new slips are proposed.

The traffic analysis (Appendix F of the NOPC) notes that trips will be redistributed from the Brickell, CBD and Omni sub-areas to accommodate 605 hotel rooms. Other land uses, including 221,000 sqft of retail, 7,774 sqft of fish market/restaurant, and 4,000 sqft of maritime gallery will be redistributed from the CBD or Omni sub-areas. The 50-slip marina was included in the analysis, even though 42 of these are considered vested trips.

The new roadways added to the increment II analysis include Alton Road from 15th Street to South Point, and Macarthur Causeway from Collins Avenue to Palm Island Entrance. New traffic counts were taken for these segments – all other segments have traffic counts per the increment II DRI (2002).

Comments are provided below:

- The proposed land use is anticipated to generate 489 AM and 1135 PM vehicular trips (with the transit, bike and pedestrian reductions).

- The redistribution of trips tends to reduce the total number of significantly impacted links (project trips >5%) within the project area. There are two newly impacted links between the Watson Island Entrance and North Miami Avenue along Macarthur Causeway; however these calculations are based on the incorrect vehicular service volume thresholds east of Bayshore Drive. As per the increment II DRI, the applicant has used the LOS threshold E directional service volume of 5990 (1998 LOS Manual) for a freeway in error. The Causeway is an arterial (Class II), not a freeway. Using the correct directional service volume of 2730 (1988 LOS) - the new calculation for the person trip methodology is as follows:

Sample segment WB between Fisher and Palm Island:

Existing roadway person capacity	= 4368
Existing bus capacity	= <u>1348</u>
Total	5716

Existing persons in vehicles	= 4879 (3485 vehicles in the peak direction)
Existing bus patrons	= 552
Growth	= 280 (0.84 compound over 6years)
Committed	= <u>622</u>
Total	= 6333

The projected persons exceed the persons capacity.

- The new traffic counts on the Macarthur Causeway between Bayshore Drive and I-95 are less than the traffic counts per the increment II DRI (2002).

Although the methodology is consistent, we continue to be concerned about the following:

- Trip Generation: reductions in the ITE trip generation (the vehicle occupancy, transit, pedestrian and bike reductions) equate to approximately 45%.
- Levels of Service: the adopted levels of service, which take into account parallel transit facilities (such as E+20), are not appropriate for a person-trip methodology. Future conditions tables include these thresholds, however, they are meaningless.
- Vehicle Occupancy: the forecast vehicle occupancy is 1.6 persons per vehicle. In what year is such a rate suppose to occur? In the DRI analysis for the year 2009, the capacity is based on the vehicle occupancy of 1.6 but the total number of person-trips is based on a vehicle occupancy of 1.4. If it was assumed that the vehicle occupancy increased to 1.6 by 2009 (or some smaller number), the analysis may indicate additional failing segments.

If you have any questions or concerns, please do not hesitate to contact us.

Sincerely,

Miranda Blogg
Kittelson & Associates, Inc.

CITY OF MIAMI BEACH

CITY HALL 1700 CONVENTION CENTER DRIVE MIAMI BEACH FLORIDA 33139



OFFICE OF THE CITY MANAGER

TELEPHONE: (305) 673-7010
FAX: (305) 673-7782

May 13, 2004

S.F.R.P.C

MAY 13 '04

Carolyn Dekle
Executive Director
South Florida Regional Planning Council
3440 Hollywood Boulevard, Suite 140
Hollywood, FL 33021

Dear Ms. Dekle:

The purpose of this letter is to transmit the City of Miami Beach's comments on the Notification of Proposed Change filed for the expansion of the Downtown Development of Regional Impact (DRI) district boundaries to include the northwest quadrant of Watson Island.

On May 5, 2004, the Miami Beach City Commission held a public hearing to solicit public input regarding this NOPC and adopted the attached resolution. For several years, the Mayor and City Commission of Miami Beach have expressed serious concern regarding the impacts of the proposed developments on Watson Island. The NOPC expands the boundaries of the DRI to include a significant development program on Watson Island, not previously contemplated on the Island, which will further exacerbate the adverse impacts already realized to date. The Mayor and City Commission of Miami Beach feel this is an extremely important issue for our barrier island's future sustainability.

MacArthur Causeway is the key linkage between Miami Beach/South Beach and the mainland, which makes it a key infrastructure asset to the region's economy. Recent developments on Watson Island (i.e. Parrot Jungle and the Children's Museum) have already demonstrated adverse traffic impacts on the MacArthur Causeway, and inevitably, additional impacts will result from the proposed Island Gardens project as well as the proposed FTAA Headquarters and other development planned on Watson Island.

Throughout this DRI process, City of Miami Beach staff has stayed in contact with Council staff, and, as early as February 2002, the City of Miami Beach communicated its desire to participate with the City of Miami on discussions related to Watson Island and participate on the Stakeholder Council formed by the City of Miami. Miami Beach has never been informed of any meetings of the Stakeholder Council to address our ongoing concerns.

Included as attachments to this letter are:

1. Commission Memorandum dated May 5, 2004
2. Commission Resolution adopted May 5, 2004
3. Summary of comments from May 5, 2004 Public Hearing
4. DMJM & Harris, Consultant to the City of Miami Beach, Review of "Transportation Assessment Proposed Boundary Change to the Downtown Miami DRI Increment II" Report, dated May 12, 2004
5. Urban Environmental League Letter dated March 31, 2004
6. City of Miami Beach correspondence to the City of Miami, dated February 7, 2002

As part of the City's review of the NOPC, the attached Commission Memorandum includes comments relative to Boundary Expansion, Land Use, Build Out Date, Transportation Methodology, Transportation Assessment, Comprehensive Plan, Development Moratoriums, and the FTAA. I have summarized our initial findings below, and additional information pertaining to each finding is provided in the attached memorandum. I would especially call your attention to item 5, which clearly demonstrates that the Transportation Assessment did not analyze all of the roadway segments that were identified in the Council's Final Pre-Application Summary. A summary of the relevant issues and areas of concern are as follows:

1. The NOPC appears to be a substantial deviation as defined in 380.06(19)(e)(3), because land area, on which new development is proposed, is being added to the DRI and has not previously been reviewed.
2. The change in the number of hotel rooms approved in Increment II may be a substantial deviation as defined in 380.06(19)(b)(11), because the increase is greater than 5% and greater than 75 units. It must be determined if this is considered a substantial deviation.
3. The Build Out Dates identified in the NOPC (May 20, 2014) appear inconsistent with the Development Order and City of Miami Resolution 02-107 (May 28, 2009).
4. Based on the Build Out Dates identified in the NOPC of May 20, 2014, does the law at the time of application submittal apply and thus, dictate such an extended Build Out Date as a substantial deviation?
5. It appears that the Transportation Consultant did not analyze the study area defined by the South Florida Regional Planning Council, and rather than review the impact on all North, South, East and West roads in Miami Beach (as specified in the pre-application summary), only studied the impact on the MacArthur Causeway and Alton Road.
6. Additional analysis and detailed information is required to determine the traffic impact the project will have on Miami Beach roadway segments.


7. The City of Miami Beach is unable, at this time, to determine whether all committed developments in Miami Beach were analyzed, or only committed developments on 5th Street and on Alton Road were analyzed as part of the traffic analysis. Therefore, the City requests a copy of all committed developments that were reviewed.
8. The public notice for two Watson Island comprehensive plan amendments on the Island Gardens site is clearly a proposed change to the comprehensive plan for the project and would appear to contradict the statement in the NOPC that comprehensive plan amendments are not required by the proposed change. Can it be clarified if the proposed change to the comprehensive plan may not be a "required change" for the project to proceed, and therefore the response in Number 11 of the NOPC is correct?
9. Do the moratoriums and issues related to them affect roadways that are impacted by the Downtown DRI and have any bearing on the traffic analysis and/or substantial deviation review?
10. Does the proposal of Watson Island as one of two preferred sites for the Secretariat of the FTAA have any bearing on the proposed change and the substantive deviation review of impacts on areas that are affected by the Downtown DRI?

Additionally, the City engaged DMJM Harris, as the City's transportation consultant, to review the Transportation Assessment in the NOPC. The City's consultant concurs with the City's findings in number 5 above, that the Transportation Assessment did not analyze the study area, as defined by the Planning Council's Final Pre-Application Summary. The consultant concludes that their "review found various sources for discrepancies throughout the report with various degrees of impact. Discrepancies that need to be addressed and corrected due to their systematic impact to the overall project are:

1. Definition of Build-out Year, 2009 or 2014 and subsequent corrections to the analysis.
2. Selection of appropriate growth year factor (2.5% to 5%) for the Miami Beach area and the MacArthur Causeway and subsequent corrections to the analysis.
3. Use the FDOT standard Maximum Service Volume (MSV) and level of service for MacArthur Causeway and subsequent corrections to the analysis.
4. Include all committed trips to the roadway system and assess the impacts on MacArthur Causeway and the intersection of 5th Street at Alton Road."

I appreciate the opportunity to provide you with the City of Miami Beach's comments on the NOPC to the Downtown Miami DRI. The NOPC has significant impacts on Miami Beach and we appreciate, in advance, your attention and diligence in reviewing the City's comments, the consultant report and public input contained herein. If you need additional information, or have any questions, please contact me at 305-673-7010.

Sincerely,



Jorge M. Gonzalez
City Manager

c: Honorable Mayor and City Commissioners, City of Miami Beach
Honorable Mayor and City Commissioners, City of Miami
Joe Arriola, City Manager, City of Miami
Ken Metcalf, Florida Department of Community Affairs
Dana Nottingham, Director, Downtown Development Authority
Ryan Bayline, Shutts & Bowen

Attachments (6)

**SHUTTS
&
BOWEN
LLP**

ATTORNEYS AND COUNSELLORS AT LAW

May 20, 2004

Carolyn Dekle, Executive Director
South Florida Regional Planning Council
3440 Hollywood Blvd., Suite 140
Hollywood, Florida 33021

D.F.R.P.C.
MAY 24 04

**Re: Notice of Proposed Change
Increment II of the Downtown Development of Regional Impact
Island Gardens/Watson Island**

Dear Ms. Dekle:

This firm represents Flagstone Island Gardens, LLC ("Flagstone"), the contract lessee of the property located in the northwest quadrant of Watson Island (the "Property"). Flagstone is the developer of a proposed mega-yacht marina and mixed-use development known as Island Gardens (the "Project"). In connection with the development of the Project, the Downtown Development Authority (the "DDA") submitted a Notification of Proposed Change (the "NOPC") as Developer under Increment II of the Downtown Development of Regional Impact ("DDRI"). The NOPC requests a change in the boundaries of the existing DDRI to include the Property.

By way of background, in February 2001, the City of Miami (the "City"), as owner of the Property, issued an RFP for a mega yacht marina and adjacent upland development. After a number of public hearings, Flagstone's proposal for the Project was chosen by an independent Selection Committee and later approved by the City Commission. Thereafter, the Project was placed on the ballot of the November 2001 general election, where it was approved by referendum of sixty-eight (68%) of the City's voters. On April 19, 2002, the DDA voted to expand its boundaries to include the Property. At a public hearing held on December 12, 2002, the City Commission approved the expansion of the DDA boundaries. During the following year, Flagstone and the City negotiated the lease and development agreements for the Project, which were approved by the City Commission at public hearing. Thereafter, the Project was approved by the Urban Development Review Board, the Miami-Dade County Shoreline Development Review Committee, the Waterfront Advisory Board and the City Zoning Board, all at public hearings.

On April 13, 2004, the DDA filed the NOPC with the Department of Community Affairs ("DCA"), the South Florida Regional Planning Council ("SFRPC") and all other

interested parties, including the City of Miami Beach ("Miami Beach"). On May 13, 2004, Miami Beach submitted its comments on the NOPC to the SFRPC. This letter will serve as Flagstone's response to that submittal.

Miami Beach identified the following issues related to the NOPC, as those in need of resolution:

1. The NOPC appears to be a substantial deviation as defined in 380.06(19)(e)(3), because land area, on which new development is proposed, is being added to the DRI and has not previously been reviewed:

The NOPC proposes to expand the existing boundaries of the DDRI to include the Project. Pursuant to Florida Statute 380.06(19)(e)(3), any addition of land not previously reviewed is presumed to create a substantial deviation. As you know, that presumption may be rebutted by clear and convincing evidence. It is clear that all of the evidence submitted with the NOPC, including the Traffic Assessment prepared by David Plummer & Associates, Inc. (the "Traffic Assessment") clearly demonstrates that the proposed expansion of the DDRI is not a substantial deviation. While the statute states that a presumption of substantial deviation exists, the material submitted for review by the DDA clearly rebuts such a presumption.

2. The change in the number of hotel rooms approved in Increment II may be a substantial deviation as defined in 380.06(19)(b)(11), because the increase is greater than five (5%) percent and greater than seventy-five (75) units. It must be determined if this is considered a substantial deviation.

The Development Order for Increment II identifies the quantities of Net New Development for which certificates of occupancy may be issued. There has been no increase in the Net New Development nor any increase in the number of hotel units permitted. The Development Order for Increment II approved the construction of 1605 hotel units under the DDRI. The 605 hotel units planned for the Project utilize less than forty percent (40%) of the available approved hotel units. Further, the Development Order allows the City to permit simultaneous increases and decreases in the allocation of Net New Development, without the need for the filing of an NOPC. Therefore, even if the Project included more than the 1605 hotel units presently available, it would not be a substantial deviation.

3. The Build Out Dates identified in the NOPC (May 20, 2014) appear inconsistent with the Development Order and City of Miami Resolution 02-107 (May 28, 2009.)

There has been no change to the Build Out Date established in the Development Order for Increment II, approved under Resolution 02-1307. The response to question 10 in the NOPC states that fact clearly. The Build Out Date for Increment II is May 28, 2009. There was simply a scrivener's error in the text that stated the Build Out Date was May 28, 2014. The Build Out Date for Increment III, as established in Resolution 94-849 remains December 30, 2014. We reiterate our position that the approval of the NOPC will not result in a change to the Build Out Date for Increment II or Increment III.

4. Based on the Build Out Dates identified in the NOPC of May 20, 2014, does the law at the time of application submittal apply and thus, dictate such an extended Build Out Date as a substantial deviation.

As stated above, there has been no change to the Build Out Dates for Increment II or Increment III. Increment II's Build Out Date remains May 28, 2009 and Increment III's Build Out Date remains December 30, 2014. As there is no extension of the Build Out Date, there is no issue as to whether it might constitute a substantial deviation.

5. It appears that the Transportation Consultant did not analyze the study area defined by the South Florida Regional Planning Council, and rather than review the impact on all North, South, East, and West roads in Miami Beach, (as specified in the pre-application summary), only studied the impact on the MacArthur Causeway and Alton Road.

No significant impact is reported on any corridors leading into Miami Beach (the MacArthur Causeway, 5th Street, and Alton Road). Therefore, the Traffic Assessment was completed in the fashion directed by the SFRPC and outlined in the Final Pre-Application Summary dated November 25, 2002 (the "Summary") and all information contained therein is complete. The Traffic Assessment studied an area, which included all corridors leading to Miami Beach and all North, South, East and West roads, including Alton Road, wherever a significant traffic impact is reported.

6. Additional analysis and detailed information is required to determine the traffic impact the project will have on the Miami Beach roadway segments.

The Traffic Assessment fully analyzed the traffic impact of the Project. It also analyzed the collateral impacts the Project will have, not only on Miami Beach roadways, but on the main roadways and thoroughfares connected thereto. The Traffic Assessment included all information

requested by the participants at the pre-application meeting held at the SFRPC, as outlined in the Summary.

7. The City of Miami Beach is unable, at this time, to determine whether all committed developments in Miami Beach were analyzed, or only committed developments on 5th Street and on Alton Road were analyzed as part of the traffic analysis. Therefore, the City requests a copy of all committed developments that were reviewed.

Miami Beach provided information to David Plummer & Associates, Inc. and to DDA's traffic consultant, outlining all committed developments within the study area. Only the Portofino project was reported to generate over four hundred (400) PM peak hour trips. As outlined in the Summary, it was determined that only committed developments reported to generate over four hundred (400) PM peak hour trips would be used in compiling the Traffic Assessment for the Project.

8. The public notice for two Watson Island comprehensive plan amendments on the Island Gardens site is clearly a proposed change to the comprehensive plan for the project and would appear to contradict the statement in the NOPC that comprehensive plan amendments are not required by the proposed change. Can it be clarified if the proposed change to the comprehensive plan may not be a "required change" for the project to proceed, and therefore the response in Number 11 of the NOPC is correct?

There were two comprehensive plan amendments (the "Amendments") proposed for the Project. Both Amendments provided for the exchange of small parcels of Parks and Recreation designated property for Commercial designated property and a simultaneous exchange of equal size parcels of Commercial for Parks and Recreation designated property. The net effect of the Amendments created no change in the amount of Parks and Recreation or Commercial designated property within the Project. More importantly, neither of the Amendments is required for either the approval of the NOPC or the Project. The Amendments permit Flagstone to slightly reposition certain buildings in the Project. However, there is no change in the proposed uses, size or intensity of the Project whether or not the Amendments are approved.

For your information, the first Amendment was approved at public hearing by the City's Planning Advisory Board and then by the City Commission at first reading. Thereafter, it was approved by the DCA on a No Need to Review Basis and resubmitted to the City where it was approved at a public hearing on second reading by the City Commission.

The second Amendment was approved at public hearing by the Planning Advisory Board and has not as yet been heard by the City Commission.

9. Do the moratoriums and issues related to them affect roadways that are impacted by the Downtown DRI and have any bearing on the traffic analysis and/or substantial deviation review?

The moratoriums recently enacted by the City have no impact on the Project or this NOPC. The property subject to the moratoriums, which are in effect for only a ninety-day (90) period, are not located in close proximity to the Project. Further, none of the areas affected by the moratoriums are within the boundaries of the DDRI.

10. Does the proposal of Watson Island as one of two preferred sites for the Secretariat of the FTAA have any bearing on the proposed change and the substantive deviation review of impact on areas that are affected by the Downtown DRI?

The proposal to locate the headquarters of the Free Trade Association of the Americas ("FTAA") has no bearing upon, nor should it be factored into, the substantial deviation review of the NOPC. One of the locations proposed by the City is on Watson Island. However, it is not within the boundary of the Property nor will it fall within the new proposed boundary of the DDRI. As you know, the City has not as yet been selected to host the headquarters of the FTAA, nor has the actual location of the secretariat been approved by any board or commission.

Miami Beach also identified purported "discrepancies" within the Traffic Assessment submitted as part of the NOPC. Miami Beach suggests that the Traffic Assessment did not analyze the appropriate roadways and intersections. We will respond to each of the concerns as identified in the materials submitted by Miami Beach.

1. Definition of Build Out Year, 2009 or 2014 and subsequent corrections to the analysis.

As provided in response number 3, the Build Out Date for Increment II remains May 28, 2009.

2. Selection of the appropriate growth year factor (2.5% or 5.0%) for the Miami Beach area and the MacArthur Causeway and subsequent corrections to the analysis.

Each component of the future traffic growth calculation was applied consistent with the established and approved methodology. It should be

noted that the composite traffic growth rate for the roads analyzed in Miami Beach ranges from 2.9% to over 11% per year. The growth rates are based on the following: normal growth, unbuilt Increment I DDRI, unbuilt Southeast Overtown Park West DRI, Portofino DRI, and Increment II DDRI traffic.

3. Use the FDOT standard Maximum Service Volume (MSV) and level of service for MacArthur Causeway and subsequent corrections to the analysis.

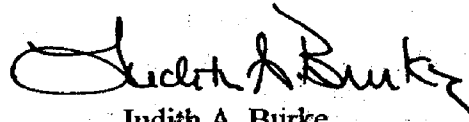
The MSV established in the Increment II DDRI was used and carried through in the NOPC. However, if an arterial road service volume were used in the analysis, the Project would not have a significant impact on Miami Beach.

4. Include all committed trips to the roadway system and assess the impacts on MacArthur Causeway and the intersection of 5th Street at Alton Road.

Committed developments were included in the road link analysis as per the approved methodology. This analysis clearly showed that the Project does not have significant impacts on Miami Beach.

I appreciate you providing us with the opportunity to respond to the comments made by Miami Beach regarding the NOPC. If you have any questions regarding the Project or the NOPC, please do not hesitate to contact me.

Very truly yours,



Judith A. Burke

cc: Honorable Mayor and City Commissioners, City of Miami
Joe Arriola, City Manager, City of Miami
Laura Billberry, Director-Asset Management, City of Miami
Honorable Mayor and City Commissioners, City of Miami Beach
Jorge M. Gonzalez, City Manager, City of Miami Beach
Christina Cuervo, Assistant City Manager, City of Miami Beach
Mr. Ken Metcalf, Florida Department of Community Affairs
Mr. Dana Nottingham, Director, Downtown Development Authority
Mr. Mehmet Bayraktar, Flagstone Island Gardens, LLC
Mr. Joseph Herndon, Flagstone Island Gardens, LLC
Mr. Ramon Alvarez, David Plummer & Associates, Inc.



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May 27, 2004

Ms. Carolyn Dekle
Executive Director
South Florida Regional Planning Council
3440 Hollywood Boulevard, Suite 140
Hollywood, Florida 33021

**Re: Notice of Proposed Change
Increment II of the Downtown Development of Regional Impact
Island Gardens/Watson Island**

Dear Ms. Dekle:

The Miami Downtown Development Authority (the "DDA") would like to take this opportunity to express its comments regarding the City of Miami Beach's findings to the Notification of Proposed Change (the "NOPC") for the development proposed at the northwest quadrant of Watson Island (the "Property"). The project being proposed is a mixed-use waterfront development known as Island Gardens (the "Project"). The DDA submitted the NOPC under Increment II of the Downtown Development of Regional Impact ("DDRI"). The NOPC submitted requests a change to the boundaries of the existing DDRI to include the Property and the addition of "marina" as a new use.

Pursuant to the City of Miami Charter, on December 14, 2000 the City Commission adopted Resolution No. 00-1081, which authorized the issuance of a Mega-Yacht Marina and Mixed Use Waterfront Development Opportunity-Watson Island, Request for Proposals, for the development of approximately 10.79 acres of upland and 13.35 acres of submerged land on Watson Island. Three proposals were received in response to the RFP and following an extensive review process, Flagstone's proposal was selected. Flagstone's proposal was approved by voter referendum by the electorate of the City of Miami on November 6, 2001 and the City Commission accepted the election results on November 15, 2001 by Resolution 01-1198. Flagstone's proposal contemplates that the project will include, but not necessarily be limited to, construction of a mega-yacht marina, a four (4) and a five (5) star hotel, retail space, and parking garage, together with certain other amenities. In April 2002, the DDA voted to expand its boundaries and annex the Property, and at a public hearing held on December 12, 2002, the City Commission approved the expansion of the DDA boundaries. The City and Flagstone subsequently negotiated and entered into an Agreement to Enter Into a Ground Lease (the "Agreement") which was approved by the City Commission at a public hearing and executed on January 1, 2003, consistent in all material respects with the Watson Island RFP and Flagstone proposal. Thereafter, the Project has gone through several public hearings and has been approved by the Urban Development Review Board, the Miami-Dade County Shoreline Development Review Committee, the Waterfront Advisory Board and the City of Miami Zoning Board.

In April, 2004, the DDA filed the NOPC with the Department of Community Affairs (the "DCA"), the South Florida Regional Planning Council (the "SFRPC") and all other interested parties including the City of Miami Beach. On May 13, 2004, the City of Miami Beach submitted its comments on the NOPC to the SFRPC. This letter will serve as the DDA's response to that submittal. The City of Miami Beach considered various issues related to the NOPC, as those in need of resolution, and by means of this letter, the DDA wishes to clarify any misconceptions that may be unclear at this time.

1. The City of Miami Beach noted that the NOPC appeared to be a substantial deviation pursuant to the definition in 380.06(19)(e)(3), due to the issue that the land area, on which the new development is being proposed, will be added to the DRI and has not previously been reviewed.

In reality, the NOPC submitted proposes an expansion to the existing boundaries of the DDRI. The expansion of the DDRI boundaries will annex the Project to the DDRI boundaries. Pursuant to Florida Statute 380.06(19)(e)(3), any addition of land not previously reviewed is presumed to create a substantial deviation. However, this section also states this presumption may be rebutted by clear and convincing evidence. Considering all of the back-up information submitted along with the NOPC, which includes the Transportation Assessment: Proposed Boundary Change to the Downtown Miami DRI Increment II prepared by David Plummer & Associates, Inc. (the "Transportation Assessment") undoubtedly demonstrates the proposed expansion and annexation is not a substantial deviation in any manner. The evidence submitted for review by the DDA visibly refutes that a presumption of substantial deviation exists. The Transportation Assessment concluded that there are no significant changes in the traffic impacts of Increment II if the requested boundary change is approved. In fact, the Transportation Assessment finds that impacts on critical segments and ramps are less with the proposed boundary change than in the approved Increment II Application for Development Approval (ADA).

2. The City of Miami Beach believes that the change in the number of hotel rooms approved in Increment II may be a substantial deviation as defined in 380.06(19)(b)(11), because the increase is greater than five (5) percent and greater than seventy-five (75) units. It must be determined if this is considered a substantial deviation.

In reaching the conclusion stated above, the City of Miami Beach has not appropriately applied the Florida Statutes nor the provisions of the Increment II Development Order.

Pursuant to subsection 380.06(22)(c), Florida Statutes, "If a development is proposed within the area of a downtown development plan approved pursuant to this section which would result in development in excess of the amount specified in the development order for that type of activity, changes shall be subject to the provisions of subsection (19), except that the percentages and numerical criteria shall be double those listed in paragraph (19)(b).

Regardless, the Development Order for Increment II simply identifies the quantities of Net New Development for which certificates of occupancy may be issued. The Development Order approves the construction of additional hotel units in the amount of 1605, under the DDRI. The hotel units that are planned for the Project are a total of 605

and therefore utilize only a fraction of the available approved hotel units approved in the Development Order. In addition, the Development Order allows for the City to permit simultaneous increases and decreases in the allocation of Net New Development, without a need to file for an NOPC. Therefore, should the Project have proposed more than the 1605 hotel units presently available, the proposal still would not constitute a substantial deviation. The NOPC that has been submitted simply allocates the hotel units from the approved Development Order without changing any unit count within the boundaries.

3. Miami Beach has interpreted the Build Out Dates identified in the NOPC (May 20, 2014) to appear inconsistent with the Development Order and DDA Resolution 02-107 (May 28, 2009).

This issue is invalid because no modification to the Build Out Date established in the Development Order for Increment II, approved under Resolution 02-1307 has ever been considered in the proposal. Below you will find our response to the City of Miami Beach's comment No. 10 and you will find that it very clearly states this fact. The Build Out Date for Increment II is May 28, 2009. The approved expiration/termination date for the Increment II development order is May 28, 2014. The conflict in dates is due simply to a scrivener's error in the text that listed the Build Out Date was May 28, 2014. The Build Out Date for Increment III, as established in Resolution 94-849 remains December 30, 2014. At this time the City reiterates its position that approval of the NOPC will definitely not result in any change to the Build Out Date for either Increment II or Increment III.

4. The City of Miami Beach questions the applicability of the law from the time of application submittal and whether it dictates such an extended Build Out date as identified in the NOPC of May 20, 2014 as a substantial deviation.

As listed in the above paragraph, we reiterate there has not been change to the Build Out Dates for Increment II or Increment III. Increment II's Build Out Date remains May 28, 2009 and Increment III's Build Out Date remains December 30, 2014. As there is no extension of the Build Out Date, there is no issue as to whether it would constitute any deviation, substantial or otherwise.

5. The City of Miami Beach has implied that the Transportation consultant did not analyze the study area defined by the South Florida Regional Planning Council, and rather than review the impact on all North, South, East, and West roads in Miami Beach, (as specified in the pre-application summary), only studied the impact on the MacArthur Causeway and Alton Road.

In truth, the Transportation Assessment studied an area that includes all roadway corridors leading to and from Miami Beach within the reasonable boundaries of the study area and all North, South East and West roads, including Alton Road at various points wherever a significant traffic impact could be considered. The project study area used in the Transportation Assessment (Section 1.1, page 5) and the Final Pre-Application Summary (the "Summary") that was prepared by the SFRPC on November 25, 2002 (page 2) are the same. Therefore, the Transportation Assessment information that was submitted is complete and in compliance as directed by the SFRPC.

6. The City of Miami Beach suggests that additional analysis and detailed information should be required to determine the traffic impact the project will have on the Miami Beach roadway segments.

The information that was provided in the Transportation Assessment wholly addressed and evaluated the traffic impact of the Project. In addition, the Transportation Assessment evaluated the impacts the Project will have, not only on Miami Beach roadways, but also on the main roadways and thoroughfares connected thereto. As stated above, the Transportation Assessment complied with all the information requested by the participants at the pre-application meeting held at the SFRPC, as outlined in the Summary. Further, the Transportation Assessment satisfies the requirements of Rule 9J-2.045, Transportation Uniform Standards, Florida Administrative Code (FAC).

7. The City of Miami Beach was unable to determine whether all committed developments in Miami Beach were analyzed, or only those committed developments on 5th Street and Alton Road were included as part of the traffic analysis. Due to this uncertainty, Miami Beach is requesting a copy of all committed developments that were reviewed.

The City of Miami Beach actually provided this information both to David Plummer & Associates, Inc. and DDA's traffic consultant. The information Miami Beach provided outlined all committed developments included within the study area. The only project Miami Beach reported to generate over four hundred (400) PM peak hour trips was Portofino. As stipulated in the Summary, it was concluded that only committed developments reported to generate over four hundred (400) PM peak hour trips would be utilized in compiling the Transportation Assessment for the Project.

8. The City of Miami Beach has interpreted the public notice for two Watson Island comprehensive plan amendments on the Island Gardens site as a proposed change to the comprehensive plan for the project and believes there to be a contradiction regarding the statement in the NOPC that comprehensive plan amendments are not required by the proposed change. Miami Beach is requesting clarification whether or not the proposed change to the comprehensive plan may not be a "required change" for the project to proceed, and therefore questions the accuracy of the response to Number 11 of the NOPC.

Based on information supplied by the City of Miami, there were in fact two comprehensive plan amendments (the "Amendments") proposed for the Project area. Both Amendments provided for an equal exchange of small parcels of Parks and Recreation designated property for Commercial designated property and a simultaneous exchange of equal size parcels of Commercial for Parks and Recreation designated property. Due to the even exchange in parcel sizes, the net effect of the two Amendments did not in any way alter the amount of Parks and Recreation or Commercial designated property within the Project. In addition, and far outweighing this issue, neither of the two Amendments are a requirement for either the approval of the NOPC or the Project. The Amendments simply permit Flagstone to slightly reposition certain structures located within the Project boundaries. However, the Project does not propose to change any of the uses, size or intensity, regardless of whether or not the Amendments are approved.

To further clarify the issue, the first Amendment was approved at public hearing by the City's Planning Advisory Board and subsequently by the City Commission at first reading. Thereafter, it was approved by the DCA on a "No Need to Review Basis" and resubmitted to the City where the City Commission approved it at public hearing on May 6, 2004 upon second reading. The second Amendment was approved at public hearing by the Planning Advisory Board and has not as yet been heard by the City Commission.

Finally, the two comprehensive plan amendments do not in any way alter the amount of parks or commercially designated property within the DDRI.

9. The City of Miami Beach questions whether the moratoriums and issues related to them affect roadways that are impacted by the Downtown DRI and if said moratoriums have any bearing on the traffic analysis and/or substantial deviation review.

The fact of the matter is that the recently enacted moratoria have no impact on the Project or the submitted NOPC. The moratoria are in effect for only a ninety-day (90) period, and those subject properties are not in close proximity to the Project. In addition to this, the enacted moratoria does not affect any of the boundaries of the DDRI.

10. The City of Miami Beach has raised the issue regarding whether there is any bearing on the proposed change and the substantial deviation review of impact on areas that are affected by the Downtown DRI due to the proposal of Watson Island as one of two preferred sites for the Secretariat of the Free Trade Association of the Americas (the "FTAA").

While it is true that one of the potential proposed locations to situate the headquarters of the FTAA is on Watson Island, the proposal has never been contemplated to fall within the boundaries of the Property. In addition, the FTAA proposal does not fall within the new proposed boundary of the DDRI. As you are probably aware, the City has not yet been selected to host the headquarters of the FTAA nor has any board or commission approved the actual location of the secretariat. Therefore, the location of the FTAA headquarters has no bearing nor should this item be factored into the substantial deviation review of the NOPC.

In addition, this letter serves to specifically address the concerns documented in the letter dated May 12, 2004 from DMJM+Harris, Inc. to the City of Miami Beach, as requested by the City of Miami Beach, on the review of the Transportation Assessment. This response was provided by Parsons Brinckerhoff Quade & Douglas, Inc., upon the request of the City of Miami to further ensure an independent review and analysis of the concerns raised by DMJM+Harris, Inc.

1. Study Area.

As noted earlier, the Transportation Assessment was completed in the fashion directed by the SFRPC Final Pre-Application Summary and all information contained therein is complete.

2. Link Analysis.

Alton Road

Comment 1: Reported traffic volume between 5th Street and 15th Street during the PM peak period appears to be lower than expected when compared to other traffic data collected within the same area in April 2004.

Answer 1: The recent traffic data mentioned in the May 12, 2004 letter and used to compare the counts was not provided and, therefore, could not be evaluated in order to determine the magnitude of the changes and potential impacts to the results of the analysis.

Comment 2: On December 17, 2003, 24-hour counts were collected at one location between 10th Street and 11th Street. Seventy-two hour counts are recommended at two locations along the corridor.

Answer 2: Consistent with the Summary complied on review agency requirements and based on the information provided in Appendix B, Transportation Assessment, 24-hour counts were performed by Traffic Survey Specialist, Inc. at the following locations:

- Alton Road Between 10th Street and 11th Street on December 17, 2003
- Alton Road Between 2nd Street and 3rd Street on December 17, 2003
- 5th Street Between Washington Avenue and Collins Avenue on December 17, 2003
- McArthur Causeway Ramp to Northbound Alton Road on December 9, 2003

Therefore, there were two count locations along Alton Road, one in the segment between 15th Street and 5th Street and the other in the segment from 5th Street to South Pointe. These counts were taken on the same day and therefore they can be correlated.

The counts were taken on a Tuesday (December 9) and on a Wednesday (December 17), which are acceptable days based on the Site Impact Handbook (FDOT) guidelines. The Handbook indicates that link traffic counts should be collected to provide 15-minute volumes suitable for use in peak-hour analysis and 24-hour volumes for converting to AADT using Department-approved factors. The counts were taken according to these guidelines (24-hour counts in 15-minute intervals).

Seventy-two-hour counts are preferable in some instances since they help reduce any bias that may be introduced when gathering data for only one day. However, the Summary is the document that sets the agreed upon implemented procedure. Furthermore, it is not foreseeable that the average of 3-day counts would produce dramatically different results than those noted in the Transportation Assessment.

5th Street (Segment between Alton Road and Collins Avenue)

Comment 1: A review of recent counts indicates that traffic is higher than the traffic shown in the report in the PM peak period for this segment.

Answer 1: Data used for the comparison was not provided and, therefore, did not allow us to measure the magnitude of the differences and the potential impacts to the analysis. In the absence of that information, the following review contained in this memorandum

is based on the information included in the Transportation Assessment and the methodology approved by the SFRPC.

The Assessment used FDOT 2002 count station's data and, therefore, current counts may very well be higher due to the natural growth in traffic. The analysis documented in the Transportation Assessment report used the most current information at the time and followed the guidelines provided in the SFRPC Summary. The approved procedure stated that "there are at least two permanent continuous count stations on MacArthur Causeway and Miami Beach" adding that "the traffic analysis will be updated based upon the best available FDOT, County or local count updates at these stations and any other roadway segments to the east of the DDRI that were not part of the original Increment II data collection."

The information provided in Appendix B – Traffic Counts, includes data from FDOT 2002 counts (the most recent counts available) for two stations along MacArthur Causeway nearby Palm Island Entrance (Stations 0031 and 9080) and two stations on SR A1A/MacArthur Causeway/5th Street located 200 feet East and West of the intersection with Alton Road, respectively (Stations 2528 and 2527).

Comment 2: The capacity of 5th Street is overrepresented, since the Maximum Service Volume (MSV) for a 6LD road indicated in the Assessment is 2,580 vph for one direction, whereas the FDOT 2002 Generalized Tables indicate a MSV of 2,330 vph for this type of road.

Answer 2: *It is important to note that this comment is based on the FDOT 2002 Generalized Tables whereas the Assessment is based on FDOT's 1998 Generalized Tables, consistent with the approved methodology and with the approved DDRI. Since the DDRI was based on 1998 LOS Handbook, the NOPC must (and did) follow the same criteria to make them congruent.*

Furthermore, based on our preliminary review of the MSVs used for the comparison, there seems to be a discrepancy between the Class of arterials that were used in the Assessment and the one used in the May 12, 2004 letter. The 2,580 vph directional capacity included in the NOPC Assessment corresponds to LOS D for arterial Class II (with 2.00 to 4.50 signalized intersections per mile). The 2,330 vph directional capacity mentioned in the letter corresponds to LOS D for arterial Class III (more than 4.5 signalized intersections per mile and not within primary city central business district of an urbanized area over 750,000).

In other words, we concur with the use of the FDOT 1998 generalized tables versus the 2002 generalized tables in order to maintain consistency with the original DDRI.

MacArthur Causeway (Segment between Alton Road and Bayshore Drive)

Comment 1: The report classified this section of the road as a freeway instead of a 6LD state two-way arterial, which at LOS E, the MSV should be 2,790 vph on MacArthur Causeway from Biscayne Boulevard to Alton Road.

Answer 1: The "Functional Classification" included in the report (Table 21.A2 (R)) is "Principal Arterial" (Urban) based on the 1992 Federal Functional Classification, FDOT 6, Division of Planning and Programs, which is also consistent with the existing DDRI. The full segment from Miami Beach to mainland is classified as such by FDOT. This comment seems to rather be related to the Peak Hour Directional Maximum Service Volume (MSV) used in the aforementioned table.

The original DRI included SR 836/I-395/MacArthur Causeway up to Palm Island Entrance (in the westbound direction). The MSV assigned to the segment between Bayshore Drive to Palm Island Entrance was 5,990 vph (directional), which corresponds to a 6LD Group 2-Freeway segment at LOS E in the 1998 LOS Handbook. This MSV included in the approved DRI seems logical in view that—in spite of the classification—the causeway behaves as a freeway and not as an arterial.

To further clarify the concept, it should be noted that arterials do provide access to the adjacent land. This access causes obvious friction within the traffic flow and therefore the arterial lane has less capacity to process traffic than a freeway (or controlled-access facility) lane. Since this is not the case for the Causeway, applying the capacity of an arterial to a facility that has better access management than any surface street would only underestimate the processing capacity of the facility. In addition, the analysis documented in the report followed the same methodology as in the original DRI, which was necessary in order to maintain consistency.

Comment 2: Year 2009 conditions were recalculated using the reduced (2,790 vph) MSV.

Answer 2: The section of MacArthur Causeway between Alton Road and Bayshore Drive was divided in four segments (in the eastbound direction) as follows:

- 1. From Alton Road to Fisher Island*
- 2. From Fisher Island to Palm Island Entrance*
- 3. From Palm Island Entrance to Watson Island Entrance*
- 4. From Watson Island Entrance to Bayshore Drive.*

Segments 3 and 4 were included as one in the original DRI, and the NOPC study maintained the criteria adopted in the approved DDRI.

Along segments 1 and 2 there is one signalized intersection (access) at Palm Island Entrance, another at Star Island, and a third one at Fisher Island (before reaching the intersection with Alton Road) in the westbound direction.

The spacing of these signalized intersections (based on a brief review of the area) varies from approximately 0.16 mile minimum to 0.82 miles maximum, resulting in signal density of 1.92 signalized intersections per mile for the segment. If treated as an arterial, then these segments should be Class I.

However, a strong case can be made that there are no access points between these intersections. This establishes a marked difference with the usual concept of arterials in which the FDOT tables are based and thus the use of capacities related to controlled-access facilities may very well apply.

It is important as well to note that the MSVs provided by FDOT are based on generalized values throughout the State of Florida. Actual capacity of a roadway is best measured using field data, which are not available at this time and for this level of planning analysis.

3. Growth Rate:

Comment 1: The May 12, 2004 letter mentions that the report uses a 0.84 % growth rate as a weighted adjusted compound growth rate for Alton Road consistent with the rates included in the approved DDRI along SR 836/I-395/MacArthur Causeway, stating that there is no analysis of justification of this growth rate.

Answer 1: The growth rate was agreed upon and therefore its inclusion –based on consistency with the approved DDRI—had been granted.

Comment 2: The May 12, 2004 letter mentions that a review of historical traffic data in Miami Beach yielded an average growth rate of 4.94% per year, with data from five count stations: two on 5th Street, one on Alton Road and two on Collins Avenue.

Answer 2: The information used to develop this growth rate should be provided for a more in-depth review. Preliminary calculations using the historical data of the available count stations in the southern portion of Miami Beach and MacArthur Causeway did not however produce the stipulated growth rate mentioned in the letter.

4. Trip Generation:

Comment: The May 12, 2004 letter states that there appears to be errors in the spreadsheet under reporting trips for “Attractions-Movie Theater”.

Answer: Without further detail and more specific information on the type, nature, and location of the errors this comment could not be addressed.

5. Pedestrian/Bike Trip Reduction:

Comment: The Assessment establishes a 3.5% reduction in trips for the Pedestrian/Bike mode for the Island Garden Area. According to the letter, there is no justification to support this reduction and based on the area’s characteristic, there should be no reduction applied.

Answer: Appendix B – Traffic Data of the Assessment includes information regarding Committed Development Information (Portofino DRI and Parrot Jungle Gardens, Inc. MUSP Traffic Impact Study). It also includes the Trip Reduction Calculations for Expanded CBD (Watson Island) sub-area. There is therefore a justification/calculation included in the Assessment.

6. Committed Projects:

Comment: Section 3.2, page 49 of the report states that the Parrot Jungle and other developments will not undergo DRI review but instead they will be included in the DDRI analysis as committed or background developments. Later the report indicates that Parrot Jungle was not included as a committed development because it generates 500 trips/day, less than the 400 vph PM peak threshold.

Answer: *The SFRPC Summary, under the title "Committed Development", states that "committed projects will be included in the traffic analysis and will include projects, such as, the Portofino DRI, Parrot Jungle, and the Children's Museum. The Cities of Miami and Miami beach will be requested by the applicant to provide information about all committed developments with over 400 PM peak hour trips for inclusion in this analysis."*

Appendix B of the NOPC Assessment includes the "Parrot Jungle and Gardens, Inc. – Major Use Special Permit – Traffic Impact Analysis" prepared for Parrot Jungle and Gardens, Inc/City of Miami by Carr Smith Corradino. This traffic impact analysis states that, based on estimated annual attendance to the Parrot Jungle, 500 daily vehicles are expected to be attracted by this park.

Section 3.2, page 50 of the NOPC Assessment, thus correctly indicates that "according to the traffic study provided by the City of Miami, the Parrot Jungle development will generate 500 daily trips, which translates into less than 400 PM Peak hour threshold. Therefore, the trips were not included as a committed development but included in the growth rate."

In conclusion, the Application is completely consistent with the Pre-Application Summary agreement with the review agencies, satisfies state law for proposed changes to a previously approved DRI, and does not create additional impacts to regional resources or facilities. Furthermore, the changes proposed in the Application are consistent with the regional goals and policies in the Strategic Regional Policy Plan for South Florida regarding land use, public facilities, and economic development. Based on the foregoing and in light of the substantial documentation provided in the Application, we submit that the comments from the City of Miami Beach are without merit and should be disregarded.

If you have any questions, please feel free to call me at 305-579-6675.

Sincerely,

Dana Nottingham
Executive Director

Ms. Carolyn Dekle

May 27, 2004

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cc: Honorable Mayor and Commissioners, City of Miami Beach
Jorge Gonzalez, City Manager, City of Miami Beach
Honorable Mayor and Commissioners, City of Miami
Joe Arriola, City Manager, City of Miami
Laura Billberry, City of Miami
Mary H. Conway, City of Miami
Alejandro Vilarello, Esq., City of Miami Law Department
Ken Metcalf, Florida Department of Community Affairs
Mehmet Bayraktar, Flagstone
Joe Herndon, Flagstone
Judith Burke, Esq., Shutts & Bowen
Jeffrey Bercow, Esq., Bercow & Radell
Rob Curtis, The Curtis & Kimball Company

**Analysis for Major Use Special Permit for the
Island Gardens Project
located at approximately 950 and 1050 MacArthur Causeway**

CASE NO. 2004-045

Pursuant to Ordinance 11000, as amended, the Zoning Ordinance of the City of Miami, Florida, the subject proposal for the Island Gardens Project has been reviewed to allow a Major Use Special Permit per Articles 13 and 17, to be comprised of two hotel buildings housing 500 rooms and 105 fractional ownership units with accessory uses, 221,000 square feet of retail space, 1,610 total parking spaces, 50 mega-yacht slip marina and ancillary uses, maritime gallery, and approximately 6.5± acres of public gardens and open space.

This Permit also includes the following requests:

MUSP, as per Article 17, Section 1701, to permit any nonresidential uses involving in excess of two hundred thousand (200,000) square feet of floor area;
MUSP, as per Article 17, Section 1701, to permit hotels involving in excess of three hundred fifty (350) rooms;

MUSP, as per Article 17, Section 1701, to permit any single or combination of requiring or proposing to provide in excess five hundred (500) offstreet parking spaces;

Pursuant to City Code, Chapter 35, Section 36-6 Construction Equipment. Request for waiver of noise ordinance for construction and nighttime dredging.

SPECIAL EXCEPTION, as per City of Miami Zoning Ordinance 11000 as amended, Article 9, Section 924.10, to allow the projection of docks or plus into waterways previously approved on January 26, 2004 by the Zoning Board;

CLASS II, as per Article 6, Section 607.3.1, for development of new construction within a Special District;

CLASS II, as per Article 6, Section 607.3.1, for development of new construction within a Special District;

CLASS II, as per Article 15, Section 1511 for development between Biscayne Bay and the first dedicated right-of-way;

CLASS II, as per Determination of Use 2001-001, Special Exception to permit establishments which offer time-share licenses within the "C-1 Restricted Commercial" zoning district;

CLASS I, as per Section 915.2 for FAA clearance letter;

CLASS I, as per Article 9, Section 10.3.2.2 to allow development/construction/sales and rental signage;

CLASS I, as per Article 9, Section 918.2, for parking and staging during construction;

CLASS I, as per Article 9, Section 920.1, to allow temporary construction buildings and trailers;

CLASS I, as per Article 6, Section 903.1, for projects designed as a single site occupying lands divided by district boundaries;

CLASS I, as per Article 9, Section 917.1.2, to allow valet parking, including buses and other vehicles;

Request for the following MUSP conditions to be required at time of shell permit instead of an issuance of foundation permit;

Request for reservation of Downtown DRI credits;

Request for variance to the setback per Article 4, Section 401, "C-1", for the Base building maximum height at front setback;

Waiver of Charter Amendment to allow certain improvements, as shown on the site plan, to be located within the 50' setback area.

Note: Designation as a phased development pursuant to Section 2502 of Ordinance No. 11000.

REQUEST that the following MUSP conditions be required at the time of Temporary Certificate of Occupancy or Final Certificate of Occupancy instead of at the issuance of foundation permit:

- a. the requirement to record in the Public Records a Declaration of Covenants and Restrictions providing that the ownership, operation and maintenance of all common areas and facilities will be by the property owner or a mandatory property owner association; and
- b. the requirement to record in the Public Records a unity of title or covenant in lieu of unity of title.

Pursuant to Articles 13 and 17 of Zoning Ordinance 11000, approval of the requested Major Use Special Permit shall be considered sufficient for the subordinate permits requested and referenced above as well as any other special approvals required by the City which may be required to carry out the requested plans.

In determining the appropriateness of the proposed project, the Planning and Zoning Department has referred this project to the Large Scale Development Committee (LSDC) and the Planning & Zoning's Internal Design Review Committee for additional input and recommendations; the following findings have been made:

- It is found that the proposed development project will benefit the area by creating new residential and commercial opportunities on Watson Island in the Downtown NET District, located along MacArthur Causeway.
- It is found that the project has convenient access the Metrobus lines operating along MacArthur Causeway. It is also located adjacent to the Watson Island Station of the proposed "Baylink" segment of the Metrorail, located east of the subject property, for efficient use of existing mass transit systems.

- It is found that the project was reviewed by the Large Scale Development Committee on February 5, 2004 to address the expressed technical concerns raised at said Large Scale Development Committee meeting.
- It is found that the proposed project was reviewed for design appropriateness by the Urban Development Review Board on March 17, 2004, which recommended approval with the following condition; Apply the 2nd Garage scheme facing I-395. The Planning and Zoning Department's review resulted in design modifications that were then recommended for approval to the Planning and Zoning Director.
- It is found that on May 5, 2004, the City of Miami Planning Advisory Board approved the Amendment to the Downtown DRI, which expanded the boundaries of the Downtown DRI to make them consistent with the jurisdiction of the Downtown Development Authority and to add eight (8) wet slips to the Marina land use category of the DRI.
- It is found that the Future Land Use Amendment and Change of Zonings associated with the Island Gardens project were passed on Second Reading by the City of Miami City Commission (Resos. 03-0397, 03-0397a, 03-0397b, 03-0397c) on May 6, 2004.
- It is found that the proposed project was reviewed by the Zoning Board on May 10, 2004 for a Special Exception and a Variance, both of which were approved with conditions.
- It is found that on May 19, 2004, the City's Traffic Consultant, URS Corp., provided a Review of the Traffic Impact Analysis submitted by the applicant and has found the traffic analysis sufficient.
- It is found that with respect to all additional criteria as specified in Section 1305 of Zoning Ordinance 11000, the proposal has been reviewed and found to be adequate.

Based on these findings, the Planning and Zoning Department is recommending approval of the requested Development Project with the following conditions:

1. Meet all applicable building codes, land development regulations, ordinances and other laws and pay all applicable fees due prior to the issuance of a building permit.
2. Allow the Miami Police Department to conduct a security survey, at the option of the Department, and to make recommendations concerning security measures and systems; further submit a report to the Department of Planning and Zoning, prior to commencement of construction, demonstrating how the Police Department recommendations, if any, have been incorporated into the PROJECT security and construction plans, or demonstrate to the Director of the Department of Planning and Zoning why such recommendations are impractical.

3. Obtain approval from, or provide a letter from the Department of Fire-Rescue indicating APPLICANT'S coordination with members of the Fire Plan Review Section at the Department of Fire-Rescue in the review of the scope of the PROJECT, owner responsibility, building development process and review procedures, as well as specific requirements for fire protection and life safety systems, exiting, vehicular access and water supply.
4. Obtain approval from, or provide a letter of assurance from the Department of Solid Waste that the PROJECT has addressed all concerns of the said Department prior to the obtainment of a shell permit.
5. Comply with the Minority Participation and Employment Plan (including a Contractor/Subcontractor Participation Plan) submitted to the City as part of the Application for Development Approval, with the understanding that the APPLICANT must use its best efforts to follow the provisions of the City's Minority/Women Business Affairs and Procurement Program as a guide.
6. Prior to the issuance of a shell permit, provide the City with a recorded copy of the MUSP permit resolution and development order, and further, an executed, recordable unity of title or covenant in lieu of unity of title agreement for the subject property; said agreement shall be subject to the review and approval of the City Attorney's Office.
7. Provide the Department of Planning and Zoning with a temporary construction plan that includes the following: a temporary construction parking plan, with an enforcement policy; a construction noise management plan with an enforcement policy; and a maintenance plan for the temporary construction site; said plan shall be subject to the review and approval by the Department of Planning and Zoning prior to the issuance of any building permits and shall be enforced during construction activity. All construction activity shall remain in full compliance with the provisions of the submitted construction plan; failure to comply may lead to a suspension or revocation of this Major Use Special Permit.
8. In so far as this Major Use Special Permit includes the subordinate approval of a series of Class I Special Permits for which specific details have not yet been developed or provided, the applicant shall provide the Department of Planning and Zoning with all subordinate Class I Special Permit plans and detailed requirements for final review and approval of each one prior to the issuance of any of the subordinate approvals required in order to carry out any of the requested activities and/or improvements listed in this development order or captioned in the plans approved by it.
9. If the project is to be developed in phases, the Applicant shall submit an interim plan, including a landscape plan, which addresses design details for the land occupying future phases of this Project in the event that the future phases are not developed, said plan shall include a proposed timetable and shall be subject to review and approval by the Director of Planning and Zoning.

10. Pursuant to the Traffic Impact Analysis Review, the applicant is strongly encouraged to continue working with the City's Traffic Consultant to resolve all outstanding Traffic Analysis issues prior to being heard by the City Commission.
11. Pursuant to the Zoning Board review, the applicant shall adhere to the conditions of approval placed by the Zoning Board as provided in the City Commission Resolution.
12. Pursuant to the UDRB's and Planning and Zoning Department's review, the applicant shall meet the following conditions; Apply the 2nd Garage scheme facing I-395.
13. The applicant shall continue to work with the City Planning and Zoning Department in the articulation of the buffer on the eastern side of the parking garage facing MacArthur Causeway.
14. The applicant will be required to provide landscaping for the roadway and would be responsible for the development of the beautification and the landscaping of the façade to the City's final review and approval.
15. Within 90 days of the effective date of this Development Order, record a certified copy of the Development Order specifying that the Development Order runs with the land and is binding on the Applicant, its successors, and assigns, jointly or severally.

EXHIBIT "B"**C. Legal Description****LEGAL DESCRIPTION OF UPLAND PARCEL**

Commence at a point shown marked by an 5/8" diameter iron rod and Cap Stamped F.D.O.T., shown as P.T. Sta. 25+50 on the "Official Map of Location and Survey of a portion of Section 8706, designated as part of State Road A-1-A in Dade County, Florida", prepared by the State Road Department of the State of Florida, as recorded in Map Book 56, at Page 71 of the Public Records of Dade County, Florida. Said point being the point of tangency of the original center line of the Douglas MacArthur Causeway running Easterly and South Easterly from the Westerly limits (West Bridge) of Watson Island as shown on Sheet 3 of the State Road Department Right-of-Way Map, Section No. (8706-112) 87060-2117, revised March 25, 1959, said most Northerly curve having a radius of 1432.69 feet and a central angle of $62^{\circ} 00' 00''$; thence South $59^{\circ} 51' 26''$ West departing radially from said centerline a distance of 987.36 feet to a Projected Bulkhead line; thence North $17^{\circ} 12' 21''$ West along said bulkhead line, a distance of 238.86 feet to the point and place of beginning; thence North $17^{\circ} 12' 21''$ West continuing along said bulkhead line a distance of 924.70 feet to the Southerly right of way line of State Road A-1-A Douglas MacArthur Causeway; thence along said Southerly right of way line the following courses and distances; South $89^{\circ} 10' 55''$ East, a distance of 73.08 feet; thence North $86^{\circ} 44' 00''$ East, a distance of 67.09 feet to non-tangent curve concave to the Northeast whose radial line bears North $39^{\circ} 29' 18''$ East having a radius of 160.00 feet and central angle of $22^{\circ} 09' 33''$; thence along said curve an arc length of 61.88 feet; thence South $72^{\circ} 40' 15''$ East continuing along said Southerly right of way line a distance of 276.49 feet; to a curve concave to the Southwest having a radius of 600.00 feet and central angle of $46^{\circ} 17' 39''$ thence along said curve an arc length of 484.79 feet to a point of tangency; thence South $26^{\circ} 22' 36''$ East continuing along the southwesterly right of way line of State Road A-1-A, a distance of 196.59 feet; thence South $54^{\circ} 07' 39''$ West Departing Said right of way line, a distance of 532.16 feet; thence North $35^{\circ} 54' 03''$ West, a distance of 132.74 feet; thence South $54^{\circ} 07' 39''$ West, a distance of 150.14 feet to the point of beginning.

PLANNING FACT SHEET**APPLICANT**

Judith A. Burke, Esq. on behalf of Flagstone Island Gardens, LLC, the contract lessee, and Joe Arriola, City Manager, on behalf of the City of Miami.

HEARING DATE

June 2, 2004

REQUEST/LOCATION

Consideration of a Major Use Special Permit for the Island Gardens Project located at approximately 950 and 1050 MacArthur Causeway.

LEGAL DESCRIPTION

See attached.

PETITION

Consideration of a resolution, approving with conditions, a Major Use Special Permit pursuant to Articles 13 and 17 of Zoning Ordinance No. 11000, as amended, for the Island Gardens Project located at approximately 950 and 1050 MacArthur Causeway, Miami, Florida, to be comprised of two hotel buildings housing 500 rooms and 105 fractional ownership units with accessory uses, 221,000 square feet of retail space, 1,610 total parking spaces, 50 mega-yacht slip marina and ancillary uses, maritime gallery, and approximately 6.5± acres of public gardens and open space.

**PLANNING
RECOMMENDATION**

Approval with conditions

**BACKGROUND AND
ANALYSIS**

See supporting documentation.

PLANNING ADVISORY BOARD**CITY COMMISSION****APPLICATION NUMBER**

2004-045

Item # 1

CITY OF MIAMI • PLANNING AND ZONING DEPARTMENT
444 SW 2ND AVENUE, 3RD FLOOR • MIAMI, FLORIDA, 33130 PHONE (305) 416-1400